

## **CHAPTER 5**

### **LABOR STANDARDS**

#### **I. INTRODUCTION.**

Your CDBG activity is subject to State and Federal labor requirements as identified in your contract. The **Federal** labor requirements for which the Department monitors are detailed in this chapter.

#### **II. GRANTEE RESPONSIBILITIES.**

Your project is subject to the Federal labor standards, particularly prevailing wages, if the contract for construction or installation of equipment and materials exceeds \$2,000. See Section A below for more detail on determining if the prevailing wage provisions apply to your project.

The topics covered in this section are:

- A. Exemptions from prevailing wage provisions (Davis-Bacon and related acts)
- B. Establishing procedures
  - 1. Designating a labor standards coordinator
  - 2. Developing contract procedures
- C. Wage decisions
  - 1. State area wage determinations
  - 2. Federal wage determinations
  - 3. Processing and using wage decisions
- D. Contractor eligibility and certifications
  - 1. Verifying contractor eligibility
  - 2. Required contract language
- E. Project implementation
  - 1. Notice of contract award
  - 2. Pre-construction conference
- F. On-site monitoring and payroll reviews
  - 1. Procedures
  - 2. Employee interviews
  - 3. Weekly payroll review
- G. Identification of problems

H. Correcting violations

1. Withheld funds
2. Payment of wage restitution
3. Procedure for disbursement of wages due
4. Unfound workers
5. Disputes over findings
6. Overtime violations and liquidated damages
7. Suspensions or withholding of insured draws and advances

A. **Exemptions from prevailing wage provisions** (Davis-Bacon and related acts “DBRA”).

The prevailing wage rate provisions do not apply in all projects. The following activities are exempt from Davis-Bacon and related acts:

- Rehabilitation of residential property of **fewer than** eight units
- Delivery of equipment if the cost of installation is **less than** 13% of the cost of the equipment
- Apprentices working in a bona-fide apprenticeship program approved by the State
- Trainees who are employed in a Department of Labor approved program
- Fabrication of building materials or components by a manufacturer. However, DBRA does apply to labor used to assemble or install them at the project site
- Force account - work carried out by city or county employees. The use of force account on "public projects" is subject to the provisions of Sections 20160 et seq. of the California Public Contract Code.

B. **Establishing procedures.**

1. Before starting your project, designate a labor standards coordinator to ensure compliance with all applicable labor standards requirements. The coordinator's name will appear on the Notice of Contract Award/Pre-construction Conference/Start of Construction (see E., below) as well as the Davis Bacon poster to be placed at the job site, and serve as a contact person for the contractors.
2. In addition, you must develop contract procedures, which comply with all State and Federal labor standards provisions and compliance procedures. Copies of the contractor and subcontractor agreements must be retained for up to four years beyond the grant expiration date. Briefly, you must obtain applicable State and Federal wage rate decisions, and State and Federal labor standards provisions and certifications (as well as Equal Opportunity clauses found in Chapter 4) attach them to the bid specifications and contracts and ensure that a pre-construction conference is held using the State Pre-construction Conference minutes. You must also monitor contractor compliance.

C. **Wage decisions.**

You must secure both State and Federal wage rate decisions, compare them for each job classification, and pay the higher of the two wage rates in each instance.

1. State Area Wage Determinations are issued when a particular craft, classification, or type of

worker is uniform throughout a large geographical area (ordinarily a county or group of counties.) You may also request a special determination for particular crafts, classifications, or types of workers for which an area determination has not been made or issued, or has expired. To obtain State Prevailing Wage Determinations and special determinations, write to:

Department of Industrial Relations  
Chief, Division of Labor Statistics and Research  
455 Golden Gate Avenue, San Francisco, CA 94102  
(415) 972-8628

or

**<http://www.dir.ca.gov>**

All requests for special wage rate determinations must be in writing and must specify the location where the work is to be performed, including the county and the particular crafts, classifications, or types of workers for which a determination is needed. Requests for residential wage decisions often take more than two weeks to process at DIR. You can be placed on the mailing list for Area Wage Determinations by calling the above number.

Note: If a particular wage classification is contained in the State wage rate, but not the Federal, an additional Federal wage classification must be requested using the procedure described below. State classifications may not be used in lieu of Federal classifications.

2. Federal wage determinations. To obtain Federal prevailing wage rates send your request to the State CDBG Program. Be sure to completely fill out the form found on page 5-23, indicate grant or program income funding, and leave an e-mail address. Submit requests for Federal wage rates to also include:

Grant #, Contact Name, Address, Phone,  
Project Name, Location, including County,  
Type of project - Heavy, Highway, Building, or Resident

Submit to:

Department of Housing and Community Development  
State Community Development Block Grant Program  
ATTN: **[your CDBG representative]**  
2710 Gateway Oaks Drive  
North Building, Suite 190  
Sacramento, California 95833

or

fax to 916 263-0489  
ATTN: **[your CDBG representative]**

or

**[ueilat@hcd.ca.gov](mailto:ueilat@hcd.ca.gov)**

3. Processing and using wage decisions. Following receipt of the State and Federal wage decisions, your labor standards coordinator shall review the decisions and determine if any additional job classifications are required. If, after receipt of a wage determination, it is found that any class of laborers or mechanics not listed in the Federal wage determination is to be employed on the project, request an additional determination from the State CDBG Office. Use the HUD Report of Additional Classification and Rate (see page 5-39), for this purpose. This form will be used to

notify the Department of Labor which reserves final judgment on any grantee request to classify or reclassify a laborer or mechanic to conform to the wage determination.

Note: Ten days before the **bids are opened**, the grantee shall contact the State CDBG Program to assure that wage decisions previously sent are still current. If modifications have been published, you must secure the modifications and include them in the contract documents. This is critical because you will be required to make up any differential where a modification has been issued but employees were paid at a lower rate.

Wage rate modifications published later than 10 days before bid opening will not be effective unless there is reasonable time in which to notify bidders. A copy of the complete current wage decision must be physically included in all bid specifications and every subsequent contract and sub-contract.

**D. Contractor eligibility and certifications.**

1. Verifying contractor eligibility. Prior to awarding a contract you must verify that the successful bidder and all prime contractors are not on the Federal list of ineligible contractors and that they possess a State license that is current, active and in good standing. To verify Federal eligibility, you can send or fax a written request to your CDBG representative OR access the list directly on the internet at <http://epls.arnet.gov>. In order to verify contractors' license status, contact the State Contractor's Licensing Board at <http://www.cslb.ca.gov>, and keep a record of your findings on the same verification form.
2. Required contract language. You must include State and Federal labor standards provisions and the State certifications (see Section VI) and State and Federal prevailing wage rates in all bid documents, contracts and subcontracts. All contractors and subcontractors shall submit a signed State certification to you regarding State labor standards and prevailing wages (see Section VI) within 10 days after the execution of any contract or subcontract. Wage rates must also be posted at the job site, along with the Davis Bacon poster.

**E. Project implementation.**

1. Notice of contract award. Send a completed "Notice of Contract Award/Pre-construction Conference/Start of Construction" form to the State CDBG office within **10 working days** of award of contract. This notice provides, along with other information, the name of the person responsible for labor standards compliance.
2. Pre-construction conference. After giving notice of award but prior to giving notice to proceed, hold a pre-construction conference that should be attended by the prime contractor, the foreman or construction superintendent, and the person on staff who will be preparing payrolls, as well as all identified subcontractors. Invite your CDBG rep, who can answer questions as they arise. The pre-construction conference is the greatest opportunity you have to ensure labor standards compliance by:
  - a. Clearly and completely informing project employers of what their individual responsibilities are. The pre-construction conference minutes format (a sample can be found in this manual as an attachment) should be used when conducting a pre-construction conference for any construction project funded in whole or in part by State CDBG funds to ensure all necessary topics are covered, including commonly asked questions concerning equal opportunity requirements

- b. Advising the contractors that funds will be withheld from project advances to achieve compliance.
- c. Informing the contractors that they should call the grantee for assistance as soon as labor standards questions surface.
- d. Reviewing all items listed in the pre-construction conference minutes for contractors and subcontractors.
- e. Correcting any deficiencies that have developed, making sure the certification has been signed, and ensuring that all contractors and subcontractors are eligible.

**F. On-Site monitoring and payroll reviews.**

Once the project is under construction, you must monitor compliance through review of weekly payrolls and on-site monitoring including worker interviews. Payrolls must include all the information required of the Payroll Form WH-347. The person designated on the Certification of Understanding and Authorization will be charged with reviewing the payroll to ensure compliance, and will be signing the reverse of Payroll Form WH-347 or, if another form is being used, the weekly Statement of Compliance, and will submit the Certified Payroll to the Grantee within 10 (ten) days of issuance. Certified Payrolls must be completed in ink, be free of white out and strikethroughs, and must show an original signature to be deemed acceptable.

1. Procedures. You should establish a standard procedure for conducting compliance reviews, including:
  - a. Checking for posted wage rate determinations and the Davis-Bacon poster;
  - b. Obtaining copies of weekly payrolls from the general contractor and any subcontractor along with Statements of Compliance signed by the officer of the company authorized on the Certification of Authorization and Understanding, and checking the payrolls against the wage decisions, and examining for non-permissible deductions;
  - c. Verifying wages through worker interviews, using the Record of Employee Interview Form first, then checking to payroll for that worker, date and wage rate;
  - d. Reviewing use of apprentices (helpers are not eligible) for compliance with apprenticeship agreements, including required journeymen ratios;
  - e. Reviewing overtime procedures and payrolls for compliance with overtime and hours requirements.
2. Employee interviews. On-site employee interviews must include a sufficient sample of job classifications represented on the job to allow for a reasonable judgment as to compliance. Every effort shall be made to interview 10 percent of the workers in each classification. The on-site interview shall be compared against applicable payrolls for wage rate compliance. The employee shall be informed that the information given is confidential, and that his/her identity will be disclosed to the employer only with the employee's written permission, and he/she is being interviewed by an employee of the grantee.  
Disclosure of employee statements are governed by the provisions of the Freedom of Information Act and the Privacy Act of 1974.

- a. Place of Interview. Employees currently employed may be interviewed during working hours on the job, provided that the interview can be properly and privately conducted on the premises without disruption. In cases of possible falsification of records, fear of reprisals, or intimidation, it may be more advisable to conduct the interview elsewhere, such as in the employee's home, at the agency's office, or another suitable place.
  - b. Initiating the Interview. The labor standards coordinator shall begin the interview by identifying himself/herself to the worker. He/she shall confirm identity by showing the worker his/her credentials. He/she shall explain that the project is being constructed with funding from the State CDBG Program, that payment of prevailing wages on construction projects with CDBG funding is required by law, and that the purpose of the interview is to obtain information for use in determining whether the required wages are being paid. He/she shall inform the worker of the specific location at which the applicable wage determination decision is posted at the project site.
  - c. Interview Time. If the interview is conducted on the job site, it shall be arranged causing the least inconvenience to the employer and employee.
  - d. Oral Interview Statements. An employee interview need not be recorded in a signed statement when it serves merely to confirm what the records reveal, and is not otherwise indicative of a violation, assuming no violation has been alleged and the records are adequate. For compliance review purposes, however, the number of such interviews should be recorded.
  - e. Interview Form. Employee interviews should be recorded on Form HUD-11, Record of Employee Interview or a comparable form.
  - f. Mail Interviews. Employees and former employees may be interviewed by mail. Lack of response from a worker interviewed by mail does not meet the requirement.
3. Weekly payroll review. The labor standards coordinator should review weekly payrolls and other basic records during routine compliance enforcement activity on every construction project. Submitted payrolls shall be examined to assure compliance with labor standards. In examining payrolls, verify that only classifications appearing on the wage determination are used and check for disproportionate employment of laborers, apprentices or trainees. Such payrolls and statements shall be produced at any time during the normal four-year term in which records must be maintained. When reviewing payrolls, monitor the following items:
- a. Payroll Forms. As previously stated, contractors may use Department of Labor Optional Form WH-347 for Certified Payroll. The text of the "Weekly Statement with Respect to the Payment of Wages," which is required by regulations of the Secretary of Labor, appears on the reverse side of this payroll form. A contractor may use an appropriate payroll form of his/her own choice, but must report all required items of information and must also submit a copy of the weekly statement, using either Department of Labor Form WH-348, Statement of Compliance, which contains the weekly statement and related instructions, or any form containing the identical wording contained in these forms.
  - b. Fringe Benefits. The required weekly Statement of Compliance, form WH-348, includes statements concerning the payment of fringe benefits in addition to statements concerning the payment of the basic hourly wage rates. Where contractors and subcontractors make fringe payments directly to plans, a fringe benefit statement must accompany the Certified Payroll.

- c. Payrolls Must Be Obtained and Examined Promptly - Payroll Retention. The labor standards coordinator shall insist upon prompt, submission of all payrolls within 10 (ten) days. You shall withhold funds from the contractor if excessively delinquent in submitting payrolls. Payrolls should be date stamped upon receipt and also dated and initialed upon review. The payrolls shall be examined upon receipt so that any necessary corrective action may be immediately initiated, and may be accomplished while the workers are still available. The coordinator should give special attention to each project during the early stages of construction to determine whether the prime contractor is meeting his/her responsibilities regarding payrolls. Spot checking of payrolls is permissible if a review of four or five weeks of payrolls reveals no significant problems. You must retain payrolls for four years following the expiration of the grant agreement funding the project, and then you may destroy them unless an investigation, disputed compliance action, or appeal remains outstanding. Contractors and subcontractors must retain their basic payroll records (payroll register, individual earning cards, etc.) as well as all contracts and subcontracts for the same four-year period.
- d. Addresses and Social Security Numbers. Each worker's address and social security number must be reported on the first payroll on which his/her name appears. It is permissible for the contractor to omit the worker's social security number on subsequent payrolls if the contractor reports the worker's name on all payrolls in the identical form in which it was reported on the first payroll, and the contractor has no other worker with the same name. It is permissible for the contractor to omit the worker's address on subsequent payrolls if the contractor will report the worker's new address if and when an address change occurs.
- e. Incomplete Payrolls. Payrolls shall be examined to determine if they include all of the required items of information. Except where falsification is suspected, an incomplete payroll shall be returned to the prime contractor for completion. In most cases, it will be better to request the prime contractor to supply the missing information by means of a new or supplemental payroll or a supplemental statement. If a payroll is false, it shall not be returned to the contractor, and a report of such finding shall be referred to the Department.
- f. Classification and Wage Rates. To determine if the rate reported on the payroll is at least equal to the rate required by the wage rate decision, compare the classification and wage rates on the payroll with the corresponding items on the applicable wage determination. If a lesser wage rate is found, request in writing the contractor to begin paying the required wage rate immediately and to make restitution to workers for past underpayments.
- g. Computations. Payroll computations shall be spot-checked to determine whether the payrolls are accurate. Scattered minor errors may be ignored. If such errors are numerous, however, the contractor should be requested in writing to exercise more care in preparing the payrolls.
- h. Deductions. Deductions shall be reviewed for any non-permissible items. Permissible deductions include medical or hospital care, pensions or retirement, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, or accident insurance, vacation or holiday pay, defraying costs of apprenticeship or similar programs. Questions concerning permissibility of fringe benefits and "other" deductions must be referred to the Department for determination.

- i. Signature. The statement of compliance for the payroll must be signed by the owner, officer, or designated employee of the contractor, matching the signature in the submitted Certification of Authorization and Understanding. Additional written authority must be furnished by the owner or officer of the contractor where another designated employee signs the payrolls, in order for the payrolls to be deemed Certified.
- j. Requests by Outside Parties for Payrolls. To protect the personal privacy interests of employees, copies of weekly payrolls containing the individual's salary, work hours, claimed exemptions and tax status, address and social security number shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act unless any identifiers are first deleted. When payrolls are in the possession of a State or local government, then the applicable State law will govern the release of payroll information.

#### **G. Identification of problems.**

You should contact your State CDBG area representative for assistance whenever you are unable to resolve a labor standards monitoring or enforcement problem. Examples of where apparent violations of labor standards provisions would trigger a request for assistance from CDBG staff would include:

- Complaints alleging violations of labor standards that are received from employees, unions, competing employers, their representatives or other interested persons where the grantee's labor standards compliance person views these complaints as being valid.
- Habitual and persistent violations of other requirements of the contract indicating a general carelessness on the part of the contractor with respect to his contractual and statutory responsibilities.
- Contractor delays in furnishing the required payrolls, certifications, or statements, if satisfactory explanations are not furnished or other suspicious circumstances exist.
- Discrepancies (other than routine errors) are discovered. The discovery of falsification in the time sheets and payroll records, or reasonable cause to believe such a situation exists, should prompt an immediate call for assistance.
- Apparent violations of the Copeland "Anti-Kickback" Act and/or the Contract Work Hours and Safety Standards Act.

#### **H. Correcting violations.**

When any violation of labor standards requirements results in an underpayment of wages to a worker on the project, grantees must take the necessary action. For example, where wage adjustments become necessary, the labor standards coordinator shall notify the prime contractor (who is responsible for the correction of all violations) in writing to make such adjustments. Contractor confirmation of wage restitution amounting to less than \$10 per worker is not required however restitution to the worker is still required. Amounts in excess of \$10 per worker require copies of signed statements by employees and corrected payrolls to be supplied to the compliance officer by the contractor as confirmation of payment to all affected employees. Should the violation not be corrected within thirty (30) calendar days of notification, the compliance officer upon written notice to the contractor may withhold or cause to be withheld amounts due the contractor considered necessary to ensure payment of laborers and mechanics the pay rates which should have been received by the laborers and mechanics and to cover liquidated damages under the Contract Work Hours and Safety Standards Act (CWHSSA), if any and if applicable.



Only an amount necessary to ensure payment of back wages and/or liquidated damages shall be withheld. If it is necessary to estimate such an amount, every action shall be taken to promptly determine an exact amount and to return any excess to the contractor.

1. Withheld Funds. Establish, where applicable, a special account for depositing funds withheld for wage restitution.
2. Payment of Wage Restitution Where Funds Have Been Withheld. The coordinator shall provide in the written notice to the prime contractor information specifying the reasons for the withholding or suspension or intended withholding or suspension of contract payments. That information may include the failure to submit weekly payrolls promptly, the identity of underpaid workers, their correct classifications and wage rates, and the amounts of underpayments which have been computed. The contractor will then proceed to comply and to make the required payments and compute taxes owed, fringe benefits, and overtime accordingly. The contractor will supply the labor standards compliance person with signed employee statements as confirmation of payment as well as corrected payrolls. Should the contractor refuse to make such restitution as requested, the coordinator may disburse or cause to be disbursed out of withheld funds for and on account of the contractor moneys to the respective employees. Should the contractor dispute the basis of the findings, see section 5 below. Such funds should not be disbursed whenever the contractor is appealing the restitution or during the time allowed for instituting an appeal.
3. Procedure for Disbursement of Wages Due By A Grantee. In order to avoid drawing a check to a worker only to find that it cannot be delivered, the labor standards coordinator shall address a letter to each worker at his/her last known address and ask the worker to give a current address and Social Security number so arrangements may be made for the payment of additional wages found due. Upon receipt of a reply, the Social Security number must be checked with one on file (payrolls if available in order to avoid delivery of a check to a false claimant). The net amount of wages found due shall be computed. The net amount is the gross amount minus deductions for the Federal Income Withholding Tax along with the employee's share of the Social Security (FICA) Tax. Other itemized deductions that may be applicable (State and/or City) shall also be computed prior to determining the net due and remitted to such agencies. Prepare a Form W-2 for the employees. The checks shall be mailed to the employees, together with the employee's copy of the Form W-2, registered or certified mail, return receipt requested. Upon receiving receipts, a check payable to the Internal Revenue Service for the total of the amount of the wages withheld from the employees who have received payment shall be prepared. A tax return, Form 941, Employer's Quarterly Federal Tax Return, shall be prepared and forwarded with the check. The "taxpayer" shall be identified on the return as:

(Appropriate local agency), Agent for \_\_\_\_\_ Contractor on Project  
(describe name and location of project)  
Note On Return: "One - Time Return"

In the transmittal letter to Internal Revenue Service, the following statement may be helpful:

"This return covers only the taxes withheld from wages due employees engaged in the construction of (identify project). The wages were paid out of funds withheld from the contractor to assure payment of the wages. This return does not include the employer portion of FICA tax."

Note: Davis-Bacon Act Wage Restitution Disbursal. The Comptroller General reserves the right to disburse withheld funds to workers where violations of the Davis-Bacon Act occur and

the contractor refuses to make payment.

4. Unfound Workers. If all workers cannot be located and restitution made either by the contractor directly or through the use of withheld funds, sufficient funds shall be reserved in the account described in subparagraph "1" above for subject employees. Efforts should continue to be made to locate the workers. Should the workers not be located within three years from the date of creation of the account, the funds shall be forwarded to HUD and credited to the appropriate U.S. Government account.
5. Disputes Over Findings. Should the contractor dispute the findings, the situation shall be reported promptly to the HCD Labor Standards Coordinator for consideration and appropriate action. Should the Department be unable to resolve the situation, the contractor shall be advised of his/her right to appeal to the Department of Labor under 29 CFR Section 5.11(a).
6. Overtime Violations and Liquidated Damages
  - a. The prime contractor is responsible for proper overtime payment to all laborers and mechanics (and watchmen and guards employed or under a subcontract) employed on the project. The construction contract requires all subcontracts to contain clauses imposing the statutory overtime requirements. Where the required provisions do not appear in the subcontract, the prime contractor alone is responsible for any underpayments and liquidated damages.
  - b. Contractors violating the Contract Work Hours and Safety Standards Act are liable to the United States for liquidated damages. Prime contractors may be liable for subcontractor's liquidated damages violations. Whenever the labor standards coordinator believes that overtime underpayments have occurred, he/she shall compute the overtime wages due.
  - c. Computation of liquidated damages is at the rate of \$10 for each calendar day the individual was required or permitted to work in excess of forty hours within a work week without payment of the required overtime rates. For example, the day an individual works the forty-first (41<sup>st</sup>) hour within a work week and any subsequent day in that week, liquidated damages are assessed \$10 per day. In every case where it is necessary to compute liquidated damages, the contractor shall be notified in writing of the amount and the basis for the computations. This written notice of intent to assess liquidated damages shall be sent by the Department upon receipt of a report from the grantee. The report shall contain a recommendation as to whether to assess or seek waiver or reduction. Funds may be withheld to cover the computed amount of liquidated damages pending a decision.
  - d. The contractor shall have 30 days to respond to the notice of computation and intent to assess. Should the contractor seek a reduction in whole (waiver) or in part of the liquidated damages, the contractor's explanation of the violations shall substantiate why such action should be considered. In all appealed cases, the Department will prepare its recommendations for submission to the HUD Office of Labor Relations. HUD will issue a final decision in cases involving \$500 or less. In cases involving more than \$500, HUD will transmit its recommendation to the Department of Labor for its final decision. Should a reduction in whole or in part be approved by the Department of Labor or HUD, respectively, any excess funds withheld shall be released to the contractor as is appropriate.

- e. Should the contractor not respond in the prescribed period, or HUD or DOL does not approve a waiver or reduction, liquidated damages shall be assessed by the Department and collected and paid to the appropriate U.S. Government account of the U.S. Treasury.
  - f. The contractor may appeal a final decision to assess by HUD to the U.S. Claims Court within sixty days of receipt date of a certified letter assessing liquidated damages.
7. Suspension or Withholding of Insured Draws and Advances. The grantee may recommend to the Department withholding of funds during the course of construction where the contractor has failed to comply with labor standards provisions within a 30-day period. The grantee's recommendation to the Department shall contain a narrative justification. Withholding from a draw or advance should not exceed sufficient amounts to cover actual or estimated wage underpayment. Suspension of a draw or advance is a drastic action taken only when a contractor continues to violate labor standards provisions (e.g., continues to underpay employees) after notification to desist. The suspension of an entire draw or advance shall not take place because one or more subcontractors have failed to comply. If there is sufficient cause, payments of line items attributed to the work of the subcontractors in violation should be deleted from the advance, and if the sum is sufficient to cover the estimated wage underpayments, an additional amount may be withheld. Suspension or withholding may also be requested by the Department of Labor. The failure of the contractor to submit weekly payrolls over a substantial period of time is particularly serious.

### **III. COMMON PROBLEMS**

- Labor standards provisions not included in bid packages and contract documents
- Inclusion of incorrect or modified or superseded wage decision in bid and contract documents
- Absence of contractor's and especially subcontractor's signed certification concerning State labor standards and prevailing wage compliance
- Pre-construction conference not held or State pre-construction conference minutes not used
- On-site employee interviews not held
- On-site employee interviews not checked against payroll
- Payrolls not checked against wage decision
- Restitution or liquidated damages not secured for contractor violations
- Final compliance report not prepared
- Record keeping is inadequate
- Use of State classification in lieu of Federal classification

### **IV. DEPARTMENT'S ROLE**

Department staff will provide technical assistance to ensure that grantees are aware of the labor standards regulations and requirements and that grantees have developed procedures for monitoring and ensuring compliance with labor standards and have established files to document all labor standards activities.

The Department will monitor grantee's compliance only with Federal labor standards; the Department of Industrial Relations monitors compliance with State labor standards. Monitoring activities will include checking

for: wage rate determinations; contractual/subcontractual provisions and certifications; verification of bidder eligibility; grantee monitoring and enforcement of labor standards compliance; and actions taken by grantees to investigate and follow-up on violations.

The Department will also provide guidance in determining when Davis-Bacon prevailing wage rates apply. If there is any question as to the applicability of Davis-Bacon requirements, the CDBG area representative should be contacted as early as possible.

## V. REFERENCES

- Section 110, Title I, Housing and Community Development Act of 1974, as amended (42 USC 5301) provides that: "All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 USC 276a et seq.): Provided that this section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families..." (emphasis added).
- Davis-Bacon Act (40 USC 276a - 276a-5) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of Federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000. (Residential rehabilitation contracts involving structures designed for less than eight units are exempt.)
- Copeland "Anti-Kickback" Act (47 USC 276(c)) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and deductions required by court processes. The Act also requires contractors to submit payroll records weekly along with Statements of Compliance to the contracting agency. The Copeland Act applies to all contracts covered by Davis-Bacon.
- Contract Work Hours and Safety Standards Act - CWHSSA (40 USC 327 - 333) requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage for any time worked after 40 hours in one week. This provision applies to all construction contracts using State CDBG funds.
- Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.
- Section 1720 et seq. of the California Labor Code requires that where State prevailing wage rates are higher than Federal wage rates, the State wage rates shall prevail whenever Federally funded or assisted projects are controlled or carried out by California public entities of any sort.
- Sections 1810-1815 of the California Labor Code determine the maximum calendar workday for a worker employed on a public works project to be 8 hours, and 40 hours for a calendar week. Contractors forfeit \$25 for each calendar day during which such worker is required or permitted to work more than 8 hours per day or more than 40 hours in any one calendar week and is not paid overtime (Sections 1810-1814). Section 1815 provides that, notwithstanding the provisions of Sections 1810-1814, employees who work in excess of 8 hours per day or 40 hours per week shall be compensated at a rate not less than 1-1/2 times the basic rate of pay.
- Section 7028 of the California Business and Professional Code requires that any person engaging in the business or acting in the capacity of a contractor within California must have a license.

- Labor Standards Administration and Enforcement Guidelines contains policies and procedures to be used by grantees, contractors and subcontractors who are recipients of Community Development Block Grant funds to ensure compliance with applicable Federal labor standards, statutes and regulations and outlines enforcement actions to be taken when necessary. Available at <http://www.hud.gov/olr/olrguid2.html#guide2>
- A Contractors Guide to Davis-Bacon Wage Requirements & Certified Payrolls An explanation in simple non-bureaucratic terms what is required of contractors and sub-contractors working on construction projects covered by DBRA prevailing wage and reporting requirements. Available at <http://www.hud.gov/olr/olrwrcp.html>
- A Practical Guide to the Davis-Bacon Act, 9/95, available from Federal Publications, Inc., Washington, D.C. (202) 337-7000.
- Public Contracting in California, 4/95, available from Federal Publications, Inc., Washington, D.C. (202) 337-7000.

## VI. SUPPORTING MATERIALS.

• Certification of Understanding and Authorization	5-15
• Construction (Checklist)	5-16
• Contractor's/Subcontractor's Certification Concerning State Labor Standards and Prevailing Wages	5-18
• Davis-Bacon - Coverage Chart	5-23
• Davis-Bacon - Request for Determination and Response to Request	5-22
• DOL Poster-Notice to Employees Working on Federal Construction Projects	5-53
• Equal Opportunity - Commonly Asked Questions	5-25
• Federal Labor Standards Provisions	5-46
• Force Account (Checklist)	5-27
• Fringe Benefit Payments - Certification	5-29
• Labor Standards Contracts - Document Matrix	5-19
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• Payroll Form WH-347 Instructions	5-50
• Pre-construction Conference Minutes (Sample & Attachment)	5-38
• Record of Employee Interview (Sample & Instructions)	5-35
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**CERTIFICATION OF UNDERSTANDING  
AND AUTHORIZATION**

PROJECT NAME: \_\_\_\_\_

STATE CDBG NUMBER: \_\_\_\_\_

This is to certify that the principals, and the authorized payroll officer, below, have read and understand the Minutes of the Pre-construction Conference, the State and Federal labor standards clauses pertaining to the subject project and the U.S. Dept. of Labor and State Dept. of Industrial Relations' wage determinations \_\_\_\_\_ and \_\_\_\_\_.

The following person(s) is designated as the payroll officer for the undersigned and is authorized to sign the Statement of Compliance which will accompany our weekly certified payroll reports for this project:

\_\_\_\_\_  
(Name) Payroll Officer

\_\_\_\_\_  
(Signature) Payroll Officer

\_\_\_\_\_  
(Contractor/Subcontractor)

by\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

## CONSTRUCTION CHECKLIST

Date

Determine if project is covered by Davis-Bacon

\_\_\_\_\_

Assign Labor Standards Coordinator

\_\_\_\_\_

Obtain applicable Federal and State wage decisions

\_\_\_\_\_

Review wage decisions, determine if additional wage decisions are required

\_\_\_\_\_

If additional classification is necessary, submit Report of Additional Classification Rate to State CDBG office.

\_\_\_\_\_

Ten days before bid opening determine if wage decisions are still current

\_\_\_\_\_

Review bid package for completeness (Labor Standards Document Matrix)

\_\_\_\_\_

Determine that the minimum bonding requirements have been met for construction contracts in excess of \$100,000

\_\_\_\_\_

Bid guarantee

\_\_\_\_\_

Performance bond

\_\_\_\_\_

Payment bond

\_\_\_\_\_

Review by City/County Attorney

\_\_\_\_\_

Prepare minutes of bid opening

\_\_\_\_\_

Tabulate bids

\_\_\_\_\_

Make recommendation for award

\_\_\_\_\_

Verify contractor eligibility with State CDBG Office

\_\_\_\_\_

Submit Contractor's Notification of Subcontracts Awarded to U.S. Dept. of Labor for construction contracts in excess of \$10,000

\_\_\_\_\_

Each contractor awarded over \$10,000 to submit one Monthly Utilization Report by the **at the end of the project**. Maintain in your records after completion of project.

\_\_\_\_\_

Complete State CDBG environmental review and any other special grant conditions prior to the draw-down of program funds	_____
Execute contract	_____
Submit a Notice of Contract Award/Pre-construction Conference/Start of Construction to State CDBG Office within 10 working days of award of contract	_____
Contractor submit Contractor's/Subcontractor's Certification Concerning State Labor Standards and Prevailing Wages to grantee within 10 working days of the award of any contract or subcontract	_____
Issue notice of pre-construction and hold pre-construction conference using minutes format recommended. Obtain all required signatures on pre-construction conference minutes	_____
Issue Notice to Proceed to Contractor	_____
Conduct project compliance reviews:	
Review weekly payrolls and statements of compliance	_____
After receipt of second payroll, contact your field representative to schedule monitoring of labor standards component.	_____
Determine that State and Federal wage decisions and the Notice to Employees Poster are posted at the job site.	_____
Conduct employee interviews using Record of Employee Interview Form	_____
If trainees or apprentices are being used on the project, obtain proof of registration in a bona fide program and place in the labor standards file.	_____
Submit Semi-Annual Labor Standard Enforcement Report by March 31 and September 30 until the project is closed out	_____
Submit Final Wage Compliance Report	_____



**CONTRACTOR'S/SUBCONTRACTOR'S CERTIFICATION  
CONCERNING STATE LABOR STANDARDS AND PREVAILING WAGES**

All contractors and subcontractors shall give the following certification to the grantee and forward this certification to the grantee within 10 days after the execution of any contract or subcontract.

- A. "I am aware of the provisions of Section 1720 et seq. of the California Labor Code which requires that the State prevailing wage rate shall be paid to employees where this rate exceeds the Federal wage rate."
- B. "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."
- C. "It is further agreed that, except as may be provided in Section 1815 of the California Labor Code, the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the subcontractor shall forfeit, as a penalty, \$25 for each worker employed in the execution of the subcontract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week."

(Contractor/Subcontractor)

By \_\_\_\_\_  
(Signature) (Typed Name and Title) (Date)

## document matrix

## document matrix

## Insert Wage Table

U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION		REQUEST FOR DETERMINATION AND RESPONSE TO REQUEST (Davis-Bacon Act as Amended and Related Statutes)	
<p>Response to Request</p> <p>Type of Work:</p> <p><input type="checkbox"/> Residential                      <input type="checkbox"/> Building</p> <p><input type="checkbox"/> Highway                           <input type="checkbox"/> Heavy</p> <p><input type="checkbox"/> Other _____ (well drilling, dredging, etc.)</p>		<p>PROJECT INFORMATION</p> <p>Project Name: _____</p> <p><b>If Housing</b> # of Units: _____</p> <p># of Stories: _____</p> <p># of Dwellings: _____</p>	
<p>USE AREA DETERMINATION ISSUED FOR THIS AREA</p>		<p>CDBG grant # _____</p> <p>or _____</p> <p>Program Income ?    Yes    No</p>	
<p>Approved:</p> <p>Name: _____</p> <p>Position: HCDR II</p> <p>Title: Labor Standards Specialist</p>		<p>Mail Your Request To:</p> <p>Department of Housing and Community Development Community Development Block Grant Program 2710 Gateway Oaks Drive, Suite 190 Sacramento, CA 95833</p> <p>Or fax to (916) 263-0489</p> <p>Or e-mail to ueilat@hcd.ca.gov</p>	
<p>Requesting Officer:</p> <p>Phone: _____</p>		<p>Date of Request: _____</p> <p>Est. Advertising Date: _____</p> <p>Est. Bid Opening: _____</p>	
<p>Prior Decision Number (if any) _____</p> <p>Est. Contract Value \$ _____</p> <p>No Comp Bidding _____</p> <p>Award Date: _____</p>		<p>Location of Project:</p> <p>City: _____</p> <p>County: _____</p> <p>State: California</p>	
<p>Address to which wage determination should be e-mailed.</p>			
<p>Description of Work: (Be Specific)</p>			

## DAVIS-BACON COVERAGE CHART

### CDBG ACTIVITIES

<u>Financed Activity</u>	<u>Activity Covered?</u>	<u>Related Private Construction Covered?</u>	<u>Authority</u>
Land Acquisition	N/A	No	Justice Opinion pp. 9-11, 14
Demolition (no construction on-site contemplated)	No	N/A	HUD Handbook 1344.1, Rev-1, Sec. 7-5
Demolition (to be followed by site construction)	Yes	<u>No</u> , if demolition done by grantee or its contractor before transfer of land to developer <u>Yes</u> , if demolition contracted for by same entity doing private construction and will be carried out while contracting entity controls site.	Willits Opinion (by analogy to on-Site improvements; '78 UDAG Opinion, p. 2, item 2
Off-site Improvements (street work, storm sewers, utility construction, etc.)	Yes	No	'78 UDAG Opinion, p.2, Items 1,2 and 3
On-site Improvements (excavation/grading, storm drainage, utility or sewer work, Paving/walks/stripping, site lighting, landscaping, etc.	Yes	<u>No</u> , if done by grantee or its contractor before transfer of land to developer. <u>Yes</u> , if improvements are designed and intended to serve building on the site, will be contracted for by same entity having building constructed; and will be carried out while contracting entity controls the site.	Willits Opinion

<u>Financed Activity</u>	<u>Covered?</u>	<u>Activity Construction Covered?</u>	<u>Related Private Authority</u>
Cleaning during construction	Yes	Yes	HUD Handbook 1344.1, Rev-1, Sec. 7-4
Cleaning after construction to prepare for Occupancy (separate from construction contract)	No	No	HUD Handbook 1344.1, Rev-1, Sec. 7-4
Materials Purchase	N/A		
Equipment, Machinery, and Fixtures Purchase (as opposed to installation)	N/A	No	Justice Opinion, pp. 9-11, 13-14;
Equipment, Machinery, and Fixtures Installation (as opposed to, or in addition to, purchase)	<b><u>Yes</u></b> , if more than incidental amount of construction work involved. **	<b><u>Yes</u></b> , if more than an incidental amount of construction work involved in the installation. **	Justice Opinion, pp. 13-14; Logsdon-Selig Letter
Legal Fees/Accounting Fees	N/A	No	Justice Opinion, pp. 9-11, 14
Architectural and Engineering Fees	N/A	No	Justice Opinion, pp. 9-10, 14
Construction Management	N/A	No	Justice Opinion, pp. 9-11, 14
Tenant allowances, for non-construction expenses (furniture, business, licenses, etc.)	N/A	No	Justice Opinion, pp. 9-11, 14

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\*\* Construction work involving installation is incidental if it is 13% or less of the total cost of the CDBG/UDAG financed equipment; if it is more, a 4-part test applies. (See Logsdon-Selig letter.)

# EQUAL OPPORTUNITY COMMONLY ASKED QUESTIONS

(A PRE-CONSTRUCTION CONFERENCE HAND OUT)

1. What are the responsibilities of the offeror or bidder to ensure equal employment opportunity?

The offeror or bidder must comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Opportunity Construction Contract Specifications."

2. Are contractors required to ensure a comfortable working environment for all employees?

Yes, it is the contractor's responsibility to provide an environment free of harassment, intimidation, and coercion to all employees and to notify all foremen and supervisors to carry out this obligation, with specific attention to minority or female individuals.

3. To alleviate developing separate facilities for men and women on all sites, can a contractor put all women employees on one site?

No, the contractor must assign two or more women to each site when possible.

4. Are contractors required to make special outreach efforts to minority and female recruitment sources?

Yes, contractors must establish a current list of minority and female recruitment sources, notify them when employment opportunities are available, including on-the-job training and apprenticeship programs, and record responses.

5. Are any efforts made to record the number of minority and females applying for positions with construction contractors?

Yes, all contractors must maintain a current file of the names, addresses and telephone numbers of all minority and female applicants and document whatever action was taken.

6. What happens if a woman or minority is sent to the union by the contractor and is not referred back to the contractor for employment?

If the unions impeded the contractor's responsibility to provide equal employment opportunity, a written notification is sent to the Director of the U.S. Department of Labor.

7. What efforts are made by contractors to create entry level positions for women and minorities?

Contractors are required to develop on-the-job training programs or participate in training programs, especially those funded by the Department of Labor, to create positions for women and minorities relevant to the contractor's employment needs.

8. Are any efforts made by the contractor to publicize their Equal Employment Opportunity (EEO) policy?

Yes, the contractor is responsible to notify unions and training programs and request their cooperation as well as to include it in any policy manual or collective bargaining agreement, and to publicize it in the company newspaper and annual report. Externally, the contractor is responsible to include the EEO policy in all media advertisement.

9. Are any in-service training programs provided for staff to update the EEO policy?

At least annually, a review of the EEO policy and the affirmative action obligations are required of all personnel employees of a decision-making status. A record of the meeting including date, time, location, persons present, subject matter discussed, and disposition of the subject matter shall be maintained.



10. What recruitment efforts are made for minorities and women?

The contractor must notify both orally and in writing, minority and female recruitment sources one month prior to the date of acceptance for apprenticeship or other training programs. The contractor must also encourage present minority and female employees to recruit members of their own group.

11. Are any measures taken to encourage promotions for minorities and women?

Yes, an annual evaluation is conducted for all minority and female personnel to encourage these employees to seek higher positions.

12. What efforts are taken to ensure that personnel policies are in accordance with the EEO policy?

Personnel policies in regard to job practices, work assignments, etc., are continually monitored to ensure that the EEO policy is carried out.

13. Can women be excluded from utilizing any facilities available to men?

No, all facilities and company activities are non-segregated except for bathrooms or changing facilities to ensure privacy.

14. What efforts are made to utilize minority and female contractors and suppliers?

None, however, records are kept of all offers to minority and female construction contractors.

15. If a contractor participates in a business related association which does not comply with affirmative action standards, does that show his/her failure to comply?

No, the contractor's obligation to comply is his own. If he makes every effort to assume that this group has a positive impact on EEO policy and they fail to accept this attitude, it shall not be contrived as noncompliance on the part of the contractor.

16. Would a contractor be in violation of EEO policy and affirmative action if he set up one set of goals to include minorities and women?

Yes. There is a single goal for minorities and a separate single goal for women. The contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority.

17. Can a contractor hire a subcontractor who has been debarred from government contracts pursuant to EEO?

No. The contractor must suspend, terminate or cancel any subcontractor who is in violation of the EEO policy.

18. What effort has to be taken by the contractor to monitor all employment to ensure the company's EEO policy is being carried out?

The contractor must designate a responsible individual to keep accurate records of all employees which includes specific information required by the government.

**FORCE ACCOUNT (CHECKLIST)****PROJECT INFORMATION**

Date: \_\_\_\_\_

Project Name and Location: \_\_\_\_\_

CDBG Grant # \_\_\_\_\_

Jurisdiction/Grantee: \_\_\_\_\_

Grantee Contact: \_\_\_\_\_

Contact Phone: \_\_\_\_\_

CDBG Rep: \_\_\_\_\_

Rep Phone: \_\_\_\_\_

Type of Project:    ED        General        Native American        Colonias

Instructions: Complete the checklist below and submit to your State CDBG Program representative. If a section is not applicable to your project write in N/A. If additional space is require attach to checklist. Contact your CDBG representative if you are unclear about the applicability of State and Federal labor standards.

1. Name and engineering qualifications of personnel performing the work and their capabilities for design, supervision, planning, inspection, testing, etc., as applicable.
  
2. Details of experience with projects of like or similar nature.
  
3. Information on workload as it may affect capacity to do the work within the time frame or work schedule.
  
4. Justification for doing the work by force account rather than by contract.
  
5. A complete breakdown showing: (a) the number of work hours and cost per hour for each category of labor, and (b) a list of non-salary costs such as materials, supplies, equipment, etc. (Attach)

Completed by

\_\_\_\_\_  
Name\_\_\_\_\_  
Title\_\_\_\_\_  
Date

## FRINGE BENEFIT PAYMENTS CERTIFICATION

PROJECT NAME: \_\_\_\_\_

STATE CDBG NUMBER: \_\_\_\_\_

Classification/ Fringe Benefits Provided	Name, Address and Telephone Number of Plan/Fund/Program
1) _____	_____
<u>Health and Welfare</u>	_____
<u>Pension</u>	_____
<u>Vacation</u>	_____
<u>Apprenticeship/Training</u>	_____
2) _____	_____
<u>Health and Welfare</u>	_____
<u>Pension</u>	_____
<u>Vacation</u>	_____
<u>Apprenticeship/Training</u>	_____
3) _____	_____
<u>Health and Welfare</u>	_____
<u>Pension</u>	_____
<u>Vacation</u>	_____
<u>Apprenticeship/Training</u>	_____

OR: (Check if Applicable.)

\_\_\_\_\_ I certify that I do not make payments to approved fringe benefit plans, funds, or programs.

\_\_\_\_\_  
(Contractor/Subcontractor)

by \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Title)

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF LABOR RELATIONS**

Report of Additional Classification and Wage

Rate to Wage Determination Number: \_\_\_\_\_

\*Trade Classification \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_ PROJECT NO: \_\_\_\_\_

Instruction: Complete one of the following paragraphs A-D to document that the classification and wage rate are prevailing in the area for your type of construction.

- A. As Prime Contractor I have surveyed the following contractors (in the area) and have found the classification of work at the following rates of pay and fringe benefits (where applicable):

Contractor/Location (city/state)	Base Rate	Fringe Benefits
----------------------------------	-----------	-----------------

Proposed prevailing wage rate: \_\_\_\_\_ plus fringe benefit of \_\_\_\_\_

- B. I am currently under a labor agreement and this classification has a base rate of \_\_\_\_\_ and fringe benefit of \_\_\_\_\_, according to our agreement.

Copy of contract enclosed \_\_\_\_ ; copy of contract has been provided your office \_\_\_\_

- C. I am not under a union agreement or the union agreement does not state the requested classification and rate proposed; however, the employee and/or his/her representative have agreed that this classification is prevailing and has the following base rate of \_\_\_\_\_ and fringe benefits of \_\_\_\_\_.

Employee \_\_\_\_\_ or Representative \_\_\_\_\_  
Title \_\_\_\_\_

- D. Attached are signed statements from the Secretary of the Trade Association representing contractors (e.g., AGC, ABC) and the Secretary of the Building Trades Council having jurisdiction (representing Labor), stating the classification is prevailing and the prevailing minimum wage rate.

\_\_\_\_\_  
(Signature of Prime Contractor)

\_\_\_\_\_  
(Signature of Director of Labor Relations)

Date: \_\_\_\_\_

\*Additional classifications needed for work not included within scope of the classifications listed in the DOL wage determination may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

<b>US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b> <b>REPORT OF ADDITIONAL CLASSIFICATION AND RATE</b>		<b>DATE OF REPORT</b>
<b>TO:</b> Appropriate Regional Office, US Department of Labor	<b>FROM:</b> (Name and Location of HUD Office)	
<b>Name of Project:</b>	<b>Project Number:</b>	
<b>LOCATION OF PROJECT:</b> (City, County, State)		
<b>DESCRIPTION OF WORK:</b>		
In order to complete the Project, it is necessary to establish wage rates for the following classification not included in the US Department of Labor Wage Determination Decision No. _____ Dated: _____		
<b>CLASSIFICATIONS</b>	<b>BASIC HOURLY RATES</b>	<b>FRINGE BENEFIT PAYMENTS</b>
<b>NAME, ADDRESS AND ZIP CODE OF LABOR ORGANIZATION:</b>	<b>NAME, ADDRESS, AND ZIP CODE OF CONTRACTOR:</b>	
<b>TITLE OF LABOR ORGANIZATION'S REPRESENTATIVE:</b>	<b>TITLE OF CONTRACTOR'S REPRESENTATIVE:</b>	
<p>Supporting documents attached.</p> <p>The interested parties, including the employees or their representatives, agree on the classification and wage rate.</p> <p>The interested parties, including the employees or their representatives, cannot agree on the proper classification and wage rate. A determination by the Secretary of Labor is therefore requested.</p> <p>Available information and recommendations are attached.</p> <p>Approved</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <p>_____</p> <p>(Signature of HUD Area/Issuing Office Representative)</p> <p>Date: _____</p> </div> <div style="width: 45%;"> <p>_____</p> <p>(Signature of HUD Regional Labor Officer)</p> <p>Date: _____</p> </div> </div>		

## WAGE PAYMENTS - STATEMENT OF COMPLIANCE

Date\_\_\_\_\_

I, (name of signatory party), (title), do hereby state:

(1) That I pay or supervise the payment of the persons employed by (contractor or subcontractor) on the (building or work); that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, and ending the day of \_\_\_\_\_, 19\_\_, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said (contractor or subcontractor) from the full weekly wages earned by any person, and that no deduction has been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948.63, Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

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(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a state, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

(i) In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- (ii) Each laborer or mechanic listed in the above reference payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS (Craft) and Explanation for each:

REMARKS:

\_\_\_\_\_  
Name and title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**NOTICE OF CONTRACT AWARD/PRE-CONSTRUCTION CONFERENCE/  
START OF CONSTRUCTION**

DATE: \_\_\_\_\_

TO: State Community Development Block Grant Program

FROM: City/County of \_\_\_\_\_

SUBJECT: Notice of Contract Award/Pre-construction Conference/Start of Construction

This is to inform you that  (name of company), (I.D. number)  at  (address) ,  (phone number) , has been awarded a contract  (number)  to  (brief description of work)  in the City/County of  (city/county name) . The number of the applicable State and Federal wage decisions are  (number) , and  (number) . The contract is for  (amount) . The estimated start of construction is  (date) . Contract completion is estimated to be  (date) . A Pre-construction Conference will be held concerning this project at  (time)  on  (date)  at  (address) . The City/County has designated  (name)  as responsible for compliance with labor standards and equal opportunity provisions.



## RECORD OF EMPLOYEE INTERVIEW

Project Name: \_\_\_\_\_ Grant No.: \_\_\_\_\_

Contractor or sub: \_\_\_\_\_

Employee Name: \_\_\_\_\_

Home address: \_\_\_\_\_ Home phone: \_\_\_\_\_

Last date you worked on project before today: \_\_\_\_\_

Number of hours worked on project on that date: \_\_\_\_\_

Your hourly pay rate: \_\_\_\_\_

Your job classification(s):

Apprentice? \_\_\_\_ Yes \_\_\_\_ No

Your duties:

Tools or equipment used:

Paid at least time and one-half for all hours worked in excess of 8 hours/day or 40 hours/week? \_\_\_\_ Yes \_\_\_\_ No \_\_\_\_  
Not applicable

Ever threatened, intimidated, or coerced into giving up any part of pay? \_\_\_\_ Yes \_\_\_\_ No

Duties observed by interviewer:

Conform to classification? \_\_\_\_ Yes \_\_\_\_ No

Remarks: (continue on reverse if necessary)

\_\_\_\_\_  
Signature of interviewer

\_\_\_\_\_  
Date of interview

Payroll examination:

Remarks: (continue on reverse if necessary)

\_\_\_\_\_  
Signature of Payroll Examiner

\_\_\_\_\_  
Date

## RECORDS INTERVIEW FORM (INSTRUCTIONS)

- (a) Project Number. Include the name of the project. Include project name.
- (b) Contractor or Employer. Enter the name of the contractor or employer.
- (c) Employee's Name. Enter the employee's full name. Note any name variation entered on the payrolls if known to the employee, to facilitate comparison of the interview statement with the payroll entries (if necessary).
- (d) Home Address. Many construction workers have only a temporary address in the locality of the project and a more permanent address elsewhere from which mail may be forwarded to them. It is desirable to have a record of the more permanent address in case there is occasion to contact the worker after he/she leaves the job. If the worker does not want to give such an address, the inspector should not insist.
- (e) Last date worked on project before today (day of interview) and number of hours on project on that date. The inspector shall make it clear to the worker that these items relate only to project work, not to other work. As a check on the number of hours worked on the project, the inspector should ask the worker the time he/she started work on the project on the day in question, the time he/she stopped, and the time out for lunch. It is not necessary to record these details, but the questions may help the worker to remember the number of hours worked.
- (f) Hourly Rate of Pay. The inspector should determine what the worker is being paid. Do not be concerned if the worker is being paid a higher rate, but if the hourly rate of pay stated by the worker is lower than the required rate, the construction inspector should immediately question the worker further in an effort to determine whether the worker is mistaken or is really being underpaid. For example, has the worker actually received at least one wage payment for work performed on project, or is his/her statement based on the rate received for other work? If the latter, the inspector should ask the worker to check his/her next pay to determine his/her rate of pay for work on the project. The inspector should either arrange to reinterview the worker during the following week or ask the worker to mail the information. If the worker states that he/she received wages less than the required rate, the inspector shall obtain substantiating evidence from the worker. Does the worker receive pay envelopes, pay slips, pay check stubs, or any other forms which show the hourly wage rate or hours worked and earnings? Does he/she have any available? If not, will he/she bring them if the inspector arranges to reinterview? Or will they be mailed to the inspector?
- (g) Classification. The worker may not be familiar with the classifications used on the wage determination and thus may use a descriptive term which may not be found on the determination, e.g., Rodman. Further questioning will probably elicit the information that he/she installs reinforcing bars and, depending on the area and wage determination, the worker will agree that his/her work is that of an ironworker or laborer. The correct title may then be entered on the form.
- (h) Duties and Tools Used. If the classification stated by the worker is included in the applicable wage determination decision and the hourly rate of pay stated by the worker equals or exceeds the rate required by the decision, and the worker agrees that he/she is performing the duties of and using the tools of the stated classification, the inspector may enter the word "trade" across both items to signify duties and tools of the trade. On the other hand, if there are any discrepancies in or doubts about any of the foregoing, the worker's statements of duties performed and tools used should be entered in detail. Detailed statements are required in all interviews and employees classified as apprentices or trainees. Their status will be in doubt until records have been checked to determine whether the alleged apprentice or trainee is individually registered in an approved apprenticeship or trainee program. If the finding is negative, the information regarding duties performed and tools used will be

necessary for a determination of the correct classification and wage rate for the worker who was misclassified as an apprentice or trainee. See Paragraph 7-6 for further guidance on resolving classification questions.

- (i) Inspector's Comments. The inspector shall report any discrepancies or questionable items encountered in the interview. Examples:
- The inspector shall observe the duties performed and the tools used by the worker and shall report any conflict between his/her observations and worker's statements regarding the duties and tools.
  - If the classification stated by the worker does not appear to be the correct classification for the work performed, the inspector shall state the classification which, in his/her opinion, is applicable.
  - If the hourly rate of pay stated by the worker does not equal or exceed the rate required by the applicable wage determination decision, the inspector's comments shall direct attention to that fact.
  - If there are no discrepancies or questionable items and the inspector finds no need for comments, he/she shall write the word "None" in the space provided for his comments.
  - The inspector shall not notify the contractor of any discrepancies or questionable items disclosed by the employee wage interviews. The inspector should forward the interview records to the payroll examiner. Wage underpayments may then be calculated once it has been determined that workers have been underpaid.
- (j) Inspector's Signature. Self-explanatory.
- (k) Date of Interview. The exact date that the worker is interviewed shall be entered. Ordinarily, interviews are made during working hours on the job and it is natural, therefore, for the payroll for the date of the interview to be checked.
- (l) Payroll Examiner's Comments. The payroll examiner shall check the information of the interview form against the applicable wage determination and applicable payroll, and shall record any discrepancies or questionable items not previously reported by the inspector. Appropriate action shall then be initiated to clear discrepancies and questionable items, those noted both by inspectors and by the payroll examiner. When the necessary action has been completed, the results thereof shall be noted on the interview form. If no discrepancies or questionable items were reported by the inspector, the payroll examiner finds none, and finds no need for comments, he/she shall write the word "None" in the space provided for comments.
- (m) Payroll Examiner's Signature and Date. The examiner shall sign and date the interview form at the conclusion of the payroll review process.

## PRE-CONSTRUCTION CONFERENCE MINUTES

PROJECT NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

GRANT NO.: \_\_\_\_\_ TIME: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

MEETING PLACE: \_\_\_\_\_

FEDERAL WAGE DECISION NO: \_\_\_\_\_

STATE WAGE DECISION NO: \_\_\_\_\_

A pre-construction conference concerning labor standards provisions, administration and enforcement was conducted for the above project on this date. In addition to the attached, the following labor standards materials were provided to the prime contractor and were made available for others in attendance:

1. Applicable State and Federal Wage Decisions (above).
2. Federal Labor Standards Provisions
3. State Labor Standards Provisions
4. Poster WH-1321, Notice to Employees
5. Payroll Form WH-347 (with instructions)
6. Certification of Understanding and Authorization
7. Certification for Applicable Fringe Benefit Payments
8. Standard Contract Language (all contracts and subcontracts)
9. Standard Solicitation for Bid Language (construction over \$10,000)
10. Standard Equal Opportunity Clause (construction over \$10,000) (See Chapter 4)
11. Standard Federal Equal Employment Opportunity Construction Contract Specifications (construction over \$10,000)

Each person at the conference was requested to register their name on an attendance sheet, a copy of which is attached and made part of these minutes.

During the course of the conference, all of the labor standards and wage requirements which are applicable to the construction work to be performed were discussed in full. These standards and requirements are contained in the following publications:

U. S. Department of Labor Regulations, Parts 1, 3 and 5; Labor Standards Administration and Enforcement Guide, State and Federal labor standards provisions; State CDBG Grant Management Manual; and the attached material.

Prior to adjournment, the participants were invited to ask questions so that there would be no misunderstanding of what is necessary in order for the contractor and any subcontractors to demonstrate compliance with the labor standards clauses above.

Special notations for this project or matters which could not be resolved at the conference are listed in the space below:

For additional information concerning labor standards and wage requirements, please contact the CDBG Labor Standards specialist at (916) 445-6000.

\_\_\_\_\_

Date

\_\_\_\_\_

Grantee Labor Standards Coordinator

\_\_\_\_\_

Typed Name

Attachments

## LABOR STANDARDS PROVISIONS AND RELATED MATTERS

1. The term "wage decision" means the State and Federal wage determinations which are applicable and current at the start of construction.

The wage decision specifies the wage rates prevailing in the locality in which the work is to be performed, as determined by the Secretary of Labor, for classes of laborers and mechanics on construction of a similar nature, in accordance with the Davis-Bacon Act, as amended. The wage decision represents the minimum rates which must be paid to all laborers and mechanics employed or working on the site of the work.

The wage decisions which apply to this project are identified on the cover of these minutes. A copy of the wage decisions and the poster "Notice to Employees" (WH-1321) must be displayed at the job site in a prominent and protected area where it can be easily seen and reviewed by the workers.

2. Any class of laborers or mechanics which is not listed in the wage decision and which is to be employed on the project shall be classified or reclassified in conformance with the wage decision, and a report of the action taken shall be sent by HCD to the Secretary of Labor. No payrolls will be accepted which lists classifications that are not contained in the wage decision, or approved for the project by the additional classification process. Any request for additional classifications should be submitted in writing to HCD no later than 10 days from the date of the Pre-construction Conference. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics to be used, the question, accompanied by the recommendation of HCD, shall be referred to the Secretary of Labor for final determination. Unclassified personnel may not work on the job until after this matter is resolved.

"Helper" classifications will not be approved by this office for additional classification, and may not be utilized for the project.

3. All mechanics and laborers employed in the construction of the project shall be paid unconditionally and not less often than once a week, the full amount of wages and bona fide fringe benefits due at the time of payment computed at rates not less than those contained in the wage decision. Contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to 29 CFR 5.5(a)(1)(4). Also, regular contributions or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, and which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.
4. In all cases where fringe benefits are paid to the approved plans, funds or programs, the basic hourly rate of pay should be shown in Column 6, RATE OF PAY, of the payroll and, on reverse side of payroll, under REMARKS, show the amount of fringe benefits being paid to each individual program. Also, Section 4(a) on the reverse side of payroll should be In all cases where fringe benefits are paid in cash directly to the employee, show separately in Column 6, RATE OF PAY, of the payroll, the basic hourly wage rate paid to the employee and fringe benefits paid in cash to the employee; e.g., \$19.28/6.50. Section 4(b) on reverse of payroll should be checked.
5. Whenever the minimum wage rate prescribed in the wage decision for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor is obligated to pay the fringe benefit as stated in the wage decision, or an hourly cash equivalent (e.g., specific holidays and benefits expressed as a percentage of the basic hourly rate).

6. Apprentices and Trainees - The U. S. Department of Labor (DOL) regulations (29 CFR Part 5) contains language pertaining to the use of apprentices and trainees and establishes the parameters within which an employer may utilize a workman in a trade classification and is permitted to pay that workman a wage rate which is less than the rate required on the wage decision for that trade classification. These conditions are specified below, including the ratio of apprentices or trainees to journeymen that will be permitted on the job site.
- a. Apprentices will be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a state apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor; or if no such recognized agency exists in a state, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ration of apprentices to journeymen in any craft classification shall not be greater than the ration permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in the following paragraph, or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he or she actually performed. The grantee shall furnish to HCD written evidence of the required registration of the contractor's program and apprentices and trainees and those of subcontractors, the approved ratios of apprentices and trainees to journeymen, prior to the use of the apprentices on the job site.
  - b. Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on a payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish HCD written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ATTENTION: You are advised that HCD will require strict adherence to the ratio approved under the registered program, and will require back wage adjustments (to the journeyman's rate) for any apprentice or trainee who is employed on the job site in excess of the approved ratio. This ratio must be observed ON THE JOB SITE irrespective of the employer's compliance with the ratio as to the entire work force. The ratio that will be applied is the ratio which is in force at the time of the effective date for the wage decision as defined above, in accordance with the DOL regulations.

Supervisory or management personnel who are at the job site and who are not performing construction work may be counted as journeymen for the purpose of demonstrating compliance with the apprenticeship/trainee ratio. These personnel must be listed on the payroll reports in order to be considered for this purpose.

7. The Copeland Act (Anti-Kickback Act) provides that no deduction or rebate on any account be taken from an employee's pay, except such deductions mandatory by law, unless this deduction is authorized in writing by the employee. A copy of the signed authorization must be submitted with the payroll on which the deduction appears. One signed authorization is sufficient for deductions made on a regular basis.

8. Overtime Compensation

- a. The Fair Labor Standards Act requires compensation at the rate of one and one-half times the basic hourly rate of pay, for all hours worked in excess of 40 hours in any workweek.
  - b. Additionally, on those projects subject to the provisions of the Contract Work Hours and Safety Standards Act, no contractor or subcontractor shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such workweek. In the event of violations, the contractor or subcontractor shall be liable to any affected employee for his unpaid wages as well as to the United States for liquidated damages. Liquidated damages will be computed at the rate of \$10 per day, per violation.
9. The following definitions are contained in the DOL regulations and shall be observed for the purpose of labor standards administration and enforcement throughout the course of this work.
  - a. The term "construction" means all types of work done on a particular building or work at the site. This includes, and is not limited to, altering, remodeling, painting and decorating; the transporting of materials and supplies to or from the building or work; the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work; and any cleaning and preparation which is performed pursuant to the construction contract and is prerequisite to the final acceptance of the completed work.
  - b. The terms "laborer" and "mechanic" includes at least those workers whose duties are manual or physical in nature (including those who use tools or who are performing the work of a trade), as distinguished from mental or managerial.
  - c. Every person performing the duties of a laborer or mechanic in the construction of the project is "employed" regardless of any contractual relationship alleged to exist between the contractor and such person. Furthermore, every person paid by a contractor or subcontractor in any manner for this labor in construction of the project is "employed" and receiving "wages" regardless of any contractual relationship alleged to exist between him and the real employer.
  - d. The term "wages" means the basic hourly rate of pay, any contribution made pursuant to, or costs anticipated to provide, a bona fide fringe benefit plan, fund or program.
  - e. The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under the regulations. No other methods of payment shall be recognized.
10. Subcontractors

The contractor, his or her subcontractors and any lower-tier subcontractors shall insert Federal Labor Standards Provisions and State Labor Standards Provisions in any subcontracts into which they may enter. The contractor shall not thereby be relieved of responsibility for the compliance of any subcontractor with these conditions.
11. Contractor/Subcontractor Certifications
  - a. The contractor and each subcontractor is required to submit with, or prior to, their first payroll, the following certifications (a copy of each is attached):
    1. Certification of Understanding and Authorization which certifies that the proper officials have read and understand the minutes of the Pre-construction Conference on Labor Standards Provisions and Related Matters; and identifies the person(s) who is authorized to sign the weekly certified payroll



reports.

2. Certification for Applicable Fringe Benefit Payments which identifies the method by which the contractor/subcontractor will meet any obligation for fringe benefits which may be contained in the wage decision, and any plans, funds, or programs to which such payments will be made.

- b. Internal Revenue Service Employer Identification Number. This assigned number must be furnished by each subcontractor on their first payroll report.

## 12. Weekly Certified Payroll Reports and Related Records

- a. Payroll forms are available for purchase from the U.S. Government Printing Office Bookstore, or from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, in pads of 100, including one instruction sheet. Contractors may reproduce the payroll form to create an ample supply.
- b. The weekly certified payroll reports and basic records relating thereto (e.g., timecards, canceled payroll checks) shall be maintained during the course of the work and preserved for a period of three years thereafter for all labor which is performed in the construction of the project.

The contractor and all subcontractors shall make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of HCD, HUD and the Department of Labor, and shall permit such representatives to interview employees during work hours on the job site. The subcontractors shall also make such records available to, and permit interviews by, authorized representatives of the contractor.

- c. The original copy of all payroll reports, including those of all subcontractors, shall be submitted weekly to the grantee by the prime contractor. The copy of each payroll shall be accompanied by a "Weekly Statement of Compliance," which is either the reverse of the Payroll Form WH-347 or the "Statement of Compliance". The Statement of Compliance shall be executed with an original signature by the employer (owner, partner, corporate officer) or designated payroll officer for whom we have received authorization. The grantee will not accept any payrolls that have been endorsed with a signature stamp.
- d. Each contractor's payrolls shall be numbered consecutively, beginning with #1. The first payroll shall contain the name, address, and social security number of each employee. The last payroll for each contractor for this project shall be clearly marked "FINAL."
- e. Each payroll shall contain for each employee: the correct work classification (in accordance with the wage decision); the actual daily and weekly hours worked on this project; the hourly rate of pay; the gross wages earned; the deductions made; and the net wages paid. If additional wages were earned for work at another project, the employer may include such additional wages under Column 7 of the payroll as follows: \$350.00/\$600.00 (wages for this project /total for all projects). For these cases, the deductions and the net wages may be computed based upon the total weekly earnings.

13. Working Subcontractors - A bona fide subcontractor, with an established business, and who performs work on the job site with their crew, must list on the payroll all personnel engaged in the contract work. As the owner of the firm, for themselves, they need list only their name, work classification/owner, their hours worked each day, total hours for the week and effective rate of pay on the payroll.

NOTE: This is an administrative policy and does not imply that owners are not "mechanics" or "laborers," or that owners are not entitled to the "wages" prescribed by the wage decision for the type of work performed. This policy merely recognizes the right and responsibility of an owner to operate their business in such a way

as to assure that their wages can be met from the proceeds of the business. The policy permits the labor relations staff to accept, without further verifications, the owner's certification on the Statement of Compliance that their own wages are sufficient to meet the requirements of the wage decision.

14. A laborer or mechanic who performs work on the project in more than one classification within the same workweek shall be classified and paid at the highest wage rate applicable to any of the work which he performs unless the following requirements are met:
  - a. Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification, and must be signed by the employee.
  - b. The payroll shall show the hours worked in each classification and the wage rate paid for each classification.
  - c. The payroll shall be signed by the employee, or a copy of the signed daily time record shall be attached to the payroll.
15. To minimize the possibility of misunderstanding in regard to the receipt of payrolls, the following conditions are effective immediately for the submission of the weekly certified payroll reports:
  - a. The general contractor is responsible for the careful review and verification of his own and all subcontractors' payrolls before forwarding same to the grantee and for the timeliness of all payroll submissions.
  - b. Payroll submissions must be kept up-to-date. The payrolls for any given week must be submitted not later than 14 days following the close of the corresponding pay week.
  - c. Each submission, whether hand-carried or mailed, must be accompanied by an itemized cover letter. The entire submission will be returned if it is found to be incomplete, i.e., items that are not present that are listed on the cover letter.
  - d. In the event that a submission is returned as incomplete, or that any contractor/subcontractor is found to be delinquent in submitting payrolls, the general contractor will be considered to be in non-compliance, and any advances may be withheld.
16. During the course of the work, the grantee's labor standards coordinator will perform periodic audits of the payrolls and related submissions. The prime contractor will be notified in writing of any discrepancies or violations that are disclosed in the audit, and of the actions that will be necessary to resolve the discrepancies and/or violations. The prime contractor shall be held entirely responsible for the prompt resolution of all non-compliances, including those pertaining to all subcontractors and any lower-tier subcontractors.
17. At the time that construction is completed for this project, a final audit of the payrolls and related submissions will be performed. The project will not be approved by the grantee to proceed to final endorsement until all items of non-compliance are corrected or until appropriate provision is made by depository agreement to assure the ultimate resolution and payment of any back wages that may be found due, including related liquidated damages.

## VERIFICATION OF CONTRACTOR ELIGIBILITY

CONTRACTOR	LICENSE	CURRENT, ACTIVE AND IN GOOD STANDING	EXPIRATION DATE	ON FEDERAL DEBARREDLIST?

**PLEASE NOTE:** Jurisdictions should contact the State Contractor's License Board and the Federal Debarred list directly for the contractor's status. Internet addresses are available on Resource List Internet Addresses list on Chapter 5.

# Federal Labor Standards Provisions

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (1) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFFT Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR-5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's pay-roll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1 321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (I) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I (b)(2)(B) of the Davis-Bacon Act the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing

such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-WO14-1), U.S. Government Printing Office, Washington, DC. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3.(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment advance, or guarantee of funds. Further- more, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.1.2.

**4. (i) Apprentices and Trainees. Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor will insert in any sub- contracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

**7. Contract Termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts

contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (1) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, utters or publishes any statement knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety**

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91 -54, 83 Stat 96).

**(3)** The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

## **STATE LABOR STANDARDS PROVISIONS**

State prevailing wage rates shall apply when the State wage rate is higher than the Federal wage rate. All contractors and subcontractors are subject to the application of Section 1720 et seq. of the California Labor Code which details the regulations and procedures governing the payment of State prevailing wages.

All contractors and subcontractors are subject to the provisions of Section 3700 of the California Labor Code which requires that every employer be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code.

All contractors and subcontractors are subject to the provisions of Sections 1810-1814 of the California Labor Code which provide that the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the contractor or subcontractor shall forfeit, as a penalty, \$25 for each worker employed in the execution of the contract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week and is not paid overtime.

Section 1815 of the California Labor Code requires that notwithstanding the provisions of Sections 1810-1814, employees of contractors who work in excess of eight hours per day and 40 hours per week shall be compensated for all hours worked in excess of eight hours per day at not less than 1-1/2 times the basic rate of pay.

# U.S. DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

## INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347

General: The use of WH-347, payroll form, is not mandatory. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to Davis-Bacon and related Acts. This form meets need resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay not less than fringe benefits as predetermined by the Department of Labor, in addition to payment of not less than the predetermined rates. The contractor's obligation to pay fringe benefits may be met either by payment of the fringes to the various plans, funds, or programs, or by making these payments to the employees as cash in lieu of fringes. This payroll provides for the contractor's showing on the face of the payroll all monies paid to the employees, whether as basic rates or as cash in lieu of fringes and provides for the contractor's representation in the statement of compliance on the rear of the payroll that he is paying to others fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Column 1. Name, Address, and Social Security Number of Employee: The employee's full name must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. The address need not be shown on subsequent weekly payrolls unless his address changes. Although not required by Regulations, Parts 3 and 5, space is available in the name and address section so that social security numbers may be listed.

Column 2. Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Parts 3 and 5.

Column 3. Work Classifications: List classification descriptive of work actually performed by employees. Consult are deemed necessary, see contracting officer or agency representative. The employee may be shown as having worked in more than one classification, provided accurate breakdown of hours so worked is maintained and shown on submitted payroll by use of separate line entries.

Column 4. Hours Worked: On all contracts subject to the Contract Work Hours Standards Act, enter as overtime hours all hours worked in excess 40 hours a week.

Column 5. Total: Self-explanatory.

Column 6. Rate of Pay, including Fringe Benefits: In straight time box, list actual hourly rate paid the employee for straight time worked plus any cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate. This is of assistance in correctly computing overtime (see "Fringe Benefits" below). In the overtime box, show overtime hourly rate paid, plus any cash in lieu of fringes paid the employee (see "Fringe Benefits" below). Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standards Act of 1962. In addition to paying not less than the predetermined rate for the classification in which the employee works, the contractor shall pay to approved plans, funds, or programs or shall pay as cash in lieu of fringes, amounts predetermined as fringe benefits in the wage decision made part of the contract (see "Fringe Benefits" below).

FRINGE BENEFITS - Contractors Who Pay All Required Fringe Benefits: A contractor who pays fringe benefits



to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his employees just as he has always done. Such a contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in Section 4(c).

Contractors Who Pay No Fringe Benefits: A contractor who pays no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half-time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions: Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination required, is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay and shall show that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) worked on a Federal or Federally assisted project, an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hours should be entered in column 6 on the payroll. See paragraph on "Contractors Who Pay No Fringe Benefits" for computation of overtime rate.

Column 7. Gross Amount Earned: Enter the gross amount earned on this project. If part of the employee's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus \$63.00/120.00.

Column 8. Deductions: Five columns are provided for showing deductions made. If more than five deductions should be involved, use the first four columns; show the balance of deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll, describe the deductions contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from this weekly gross wage, but indicate that deductions are based on his gross wages.

Column 9. Net Wages Paid for Week: Self-explanatory.

Total: Space has been left at the bottom of columns so totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USC 1001, namely, possible imprisonment for five years, or a \$10,000 fine, or both. Accordingly, the party signing this required statement should have knowledge that the facts represented are true.

Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "see Deductions column in this payroll." See paragraph entitled "Fringe Benefits" above for instructions concerning filling out paragraph 4 of the statement.

## RESOURCE LIST INTERNET ADDRESSES

	Site	Address
1	Federal Wage Decisions	<a href="mailto:ueilat@hcd.ca.gov">ueilat@hcd.ca.gov</a>
2	State Wage Decisions	<a href="http://www.dir.ca.gov/DIR/S&amp;R/statistics_research.html">http://www.dir.ca.gov/DIR/S&amp;R/statistics_research.html</a>
3	DOL Home Page	<a href="http://www.dol.gov/">http://www.dol.gov/</a>
4	OFCCP Home Page	<a href="http://www.dol.gov/dol/esa/public/ofcp_org.htm">http://www.dol.gov/dol/esa/public/ofcp_org.htm</a>
5	Labor Relations Letters	<a href="http://www.hud.gov/olr/olr_lrl.html">http://www.hud.gov/olr/olr_lrl.html</a>
6	Contractors Guide to Davis-Bacon	<a href="http://www.hud.gov/oir/oirwrcp.html">http://www.hud.gov/oir/oirwrcp.html</a>
7	Labor Standards Administration and Enforcement Guide	<a href="http://www.hud.gov/oir/oirguid@.html#guide2">http://www.hud.gov/oir/oirguid@.html#guide2</a>
8	WH-347\ Statement of Compliance	<a href="http://www.hudclips.org/sub_nonhud/html/forms.htm">http://www.hudclips.org/sub_nonhud/html/forms.htm</a>
9	Document Matrix and all HCD Forms	<a href="http://housing.hcd.ca.gov/">http://housing.hcd.ca.gov/</a>
10	State Codes	<a href="http://www.leginfo.ca.gov:8000/epls/owa/epls_search.name_srch">http://www.leginfo.ca.gov:8000/epls/owa/epls_search.name_srch</a>
11	Federal Debarred List	<a href="http://www.epls.arnet.gov/">http://www.epls.arnet.gov/</a>
12	DOT Rental Rates	<a href="http://www.dot.ca.gov/hq/construc/">http://www.dot.ca.gov/hq/construc/</a>
13	Semi-Annual Labor Standards Report and Instructions	<a href="http://www.hcd.ca.gov/ca/cdbg">http://www.hcd.ca.gov/ca/cdbg</a>

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